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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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-12.0339

In re:)	Docket No.
)	
Action Wildlife Foundation, Inc.,)	
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)	
Respondent)	Complaint

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Action Wildlife Foundation, Inc., hereinafter referred to as the respondent, is a non-profit corporation whose business address is 43 Norfolk Street, Torrington, Connecticut 06790.

B. The respondent, at all times material hereto, was operating as an exhibitor as defined in the Act and the regulations. When the respondent was licensed, it received a

copy of the regulations and the standards issued pursuant to the Act and agreed in writing to comply with them.

II

A. On or about February 3, 2009, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On or about February 3, 2009, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Animals in primary enclosures were not maintained in compatible groups (9 C.F.R. § 3.133);
2. Housing facilities for animals were not structurally sound and maintained in good repair so as to protect the animals from injury and to contain the animals (9 C.F.R. § 3.125(a));
3. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals (9 C.F.R. § 3.127(b));
4. A suitable method was not provided to rapidly eliminate excess water from outdoor housing facilities for animals (9 C.F.R. § 3.127(c));
5. The facilities for respondent's animals were not structurally sound so as to protect the animals from injury, to contain the animals, and to restrict the entrance of other

animals, which included but was not limited to having a perimeter fence which was not contiguous since the gates were left open and there were gaps in the fence thereby allowing access to the animals by predators and unauthorized persons (9 C.F.R. § 3.127(d));

6. The premises (buildings and grounds) were not kept clean and in good repair and free of accumulations of trash (9 C.F.R. § 3.131(c));

III

A. On or about August 19, 2008, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On or about August 19, 2008, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Rabbits were housed in the same primary enclosure with other species of animals (9 C.F.R. § 3.58);

2. Housing facilities for animals were not structurally sound and maintained in good repair so as to protect the animals from injury and to contain the animals (9 C.F.R. § 3.125(a));

3. Supplies of food and bedding were not stored in a manner that adequately protects the supplies against deterioration, molding, or contamination against vermin and the perishable food was not properly refrigerated since the freezer was not functioning properly (9 CFR § 3.125(c));

4. Animals kept outdoors were not provided with adequate shelter from inclement weather (9 C.F.R. § 3.127(b));

5. A suitable method was not provided to rapidly eliminate excess water from outdoor housing facilities for animals (9 C.F.R. § 3.127(c));

6. The facilities for respondent's animals were not structurally sound so as to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals, which included but was not limited to having a perimeter fence which was not contiguous since the gates were left open and there were gaps in the fence thereby allowing access to the animals by predators and unauthorized persons (9 C.F.R. § 3.127(d));

7. Animals were not provided with potable water since water receptacles had dirt and algae (9 C.F.R. § 3.130) ;

8. The premises (buildings and grounds) were not kept clean and in good repair and free of accumulations of trash (9 C.F.R. § 3.131(c)); and

9. A sufficient number of employees were not utilized to maintain the prescribed level of husbandry practices (9 C.F.R. § 3.132).

IV

A. On or about January 8, 2008, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of disease control and prevention, euthanasia and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. During public exhibitions, a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1)).

C. On or about January 8, 2008, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for animals were not structurally sound and maintained in good repair so as to protect the animals from injury and to contain the animals (9 C.F.R. § 3.125(a));
2. Animals kept outdoors were not provided with adequate shelter from inclement weather (9 C.F.R. § 3.127(b)); and
3. The facilities for respondent's animals were not structurally sound so as to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals, which included but was not limited to having a perimeter fence which was not contiguous since the gates were left open and there were gaps in the fence thereby allowing access to the animals by predators and unauthorized persons (9 C.F.R. § 3.127(d)).

V

A. On or about March 27, 2007, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On or about March 27, 2007, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for animals were not structurally sound and maintained in good repair so as to protect the animals from injury and to contain the animals (9 C.F.R. § 3.125(a));

2.. Animals kept outdoors were not provided with adequate shelter from inclement weather (9 C.F.R. § 3.127(b)); and

3. The facilities for respondent's animals were not structurally sound so as to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals, which included but was not limited to having a perimeter fence which was not contiguous since the gates were left open and there were gaps in the fence thereby allowing access to the animals by predators and unauthorized persons (9 C.F.R. § 3.127(d)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:


(a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;

(b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149); and

(c) Permanently disqualifying the respondent from obtaining a license under the Act and regulations, suspending the respondent's license or permanently revoking the respondent's license.

Done at Washington, D.C.
this 26th day of March, 2012

Acting


Administrator
Animal and Plant Health
Inspection Service

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